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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

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6 Saeed Azghadi Samiee, an individual; and
7 Samaneh Babaei-Karizani, an individual,

8 Plaintiffs,

9 v.

10 James River Insurance Company, et al.,

11 Defendants.
12

Case No. 2:20-cv-00303-APG-DJA

Order

13 Before the Court is Defendant's *in-camera* submission of its claim file as addressed at this
14 Court's most recent hearing on August 5, 2021. (ECF No. 54). In that hearing, the Court asked
15 Defendant to submit an unredacted version of its claim file spanning from May 1, 2019 until
16 September 7, 2019 with highlights where Defendant had placed the redactions to determine part
17 of Plaintiff's motion to compel. (ECF No. 38). The purpose of the *in-camera* review was to
18 determine whether Defendant's redactions were appropriate or overbroad. Because the Court
19 finds that the redactions were appropriate, it denies Plaintiff's motion to compel with respect to
20 the unredacted claims file from May 1, 2019 until September 7, 2019.

21 *In-camera* review is only appropriate after a party has submitted evidence supporting its
22 claim of privilege and protection and there must be a sufficient evidentiary showing creating a
23 legitimate issue as to application of the privilege or protection asserted. *See Diamond State Ins.*
24 *Co. v. Rebel Oil Co., Inc.*, 157 F.R.D. 691, 700 (D. Nev. 1994). In Nevada, a client has a
25 privilege to refuse to disclose confidential communications between the client's representative and
26 the client's lawyer made for the purpose of facilitating the rendition of professional legal services
27 to the client. *See* NRS 49.095. In insurance bad faith claims, the attorney-client privilege may
28 not attach where counsel is "providing business advice or conducting investigative work in the

1 capacity of an insurance claims adjuster, rather than as a lawyer.” *OOIDA Risk Retention Group,*
2 *Inc. v. Bordeaux*, No. 3:15-cv-00081-MMD-VPC, 2016 WL 427066, at *7 (D. Nev. Feb. 3,
3 2016). The work product privilege in the context of insurance bad faith claims protects items
4 prepared with an eye toward eventual bad faith litigation. *Aubeg v. State Farm Mut. Auto. Ins.*
5 *Co.*, No. 2:14-cv-00635-GMN-GWF, 2014 WL 5503114, at *3 (D. Nev. Oct. 30, 2014).

6 The scope of discovery includes nonprivileged matters that are relevant to a party’s claim
7 or defense and proportional to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1). “Relevance” in
8 discovery, means material that is reasonably calculated to lead to the discovery of admissible
9 evidence.” *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978). “Information within
10 this scope of discovery need not be admissible in evidence to be discoverable.” Fed. R. Civ. P.
11 26(b)(1).

12 Here, having reviewed the redactions, the Court finds that they are appropriate. The
13 redactions made for the purpose of protecting the attorney-client privilege properly withhold
14 communications between Defendant’s representative and Defendant’s counsel for the purpose of
15 facilitating the rendition of legal services. Defendant’s attorney does not take the role of an
16 adjuster in these communications.

17 Other redactions are appropriate under the work-product doctrine because they summarize
18 the communications with the attorney and next steps suggested by the attorney. While certain
19 redacted portions of the claim file simply refer to ministerial or clerical actions regarding the
20 attorney communications, those items are irrelevant to the claims and defenses in this action and
21 need not be produced. Similarly, certain redacted items discuss the third-party passenger in
22 Plaintiff’s car at the time of the underlying accident. Plaintiff has not argued that the claim file
23 notes discussing the third-party’s claims are relevant to his claims or defenses in this action and
24 the Court’s review of these items does not reveal that they are.

25 Defendant’s redactions of the claim file spanning from May 1, 2019 until September 7,
26 2019 appropriate. The court thus denies Plaintiff’s motion to compel to the extent it seeks the
27 entire, un-redacted claim file. (ECF No. 38). Defendant need not produce the claim file spanning
28 from May 1, 2019 until September 7, 2019 in an unredacted form.

1 **IT IS THEREFORE ORDERED** that Plaintiff's motion to compel (ECF No. 38), to the
2 extent it requests the entire, un-redacted claim file, is **denied**.

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4 DATED: October 8, 2021

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7 DANIEL J. ALBRECHTS
8 UNITED STATES MAGISTRATE JUDGE
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